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Letter dated 21 September 2004 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to resolution 827 (1993) of 25 May 1993, by which the Security Council established the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (the "International Tribunal").

Article 13 and article 13 *bis* of the statute of the International Tribunal, as amended, provide as follows:

"Article 13
"Qualifications of judges

"The permanent and *ad litem* judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law."

"Article 13 *bis*
"Election of permanent judges

"1. Fourteen of the permanent judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

"(a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

"(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 13 of the Statute, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a permanent judge of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of

International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as "The International Tribunal for Rwanda") in accordance with article 12 *bis* of the Statute of that Tribunal;

"(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-eight and not more than forty-two candidates, taking due account of the adequate representation of the principal legal systems of the world;

"(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect fourteen permanent judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

"2. In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 13 of the Statute, for the remainder of the term of office concerned.

"3. The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Court of Justice. They shall be eligible for re-election."

Pursuant to paragraph 1 (a) of article 13 *bis* of the statute of the International Tribunal, States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters were invited, by means of a letter dated 15 July 2004, to submit nominations for 14 permanent judges of the International Tribunal and were informed that, within 60 days of the date of that letter, they might nominate up to two candidates meeting the qualifications set out in article 13 of the statute of the Tribunal.

Pursuant to paragraph 1 (c) of article 13 *bis* of the Statute of the International Tribunal, I have the honour to forward herewith to the Security Council the 19 nominations which I have received from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters within the 60-day period specified in paragraph 1 (b) of the same article. The list of candidates,* in alphabetical order, is annexed to this letter, together with the *curricula vitae* which have been provided to me in connection with their nominations.

I would note in this connection that the number of candidates whose nominations I have received is short of the minimum number of 28 which it is

* Circulated only to the members of the Security Council.

stipulated, in paragraph 1 (c) of article 13 *bis* of the Statute of the International Tribunal, should appear in the list which the Security Council is to establish for transmission to the General Assembly.

I would also take this opportunity to note that, pursuant to paragraph 3 of article 13 *bis* of the statute of the International Tribunal, as amended, the permanent judges of the International Tribunal elected in accordance with that article are to serve on a full-time basis and so may not engage in any other occupation of a professional nature during their term of office. Once elected to the International Tribunal, they are expected to take up residence at its seat in The Hague.

(*Signed*) Kofi A. **Annan**